REMARKS

Applicants have reviewed the Application in light of the Office Action dated May 7, 2008 ("the Office Action"). Claims 1-16 and 24-31 are pending in the Application and stand rejected. Applicants respectfully request reconsideration and favorable action in this case.

Section 102 Rejection

The Office Action rejected Claims 1-13, 15-16, and 24-30 under 35 U.S.C. §102(b) as being anticipated by the HomeTracker Lender Center Workflow Manual, Version 2.0 ("the 2.0 Manual"). Applicants have submitted a declaration from Lydia Chase under 37 C.F.R. §1.132 ("the Declaration") to traverse the rejections based on the 2.0 Manual.

35 U.S.C. §102(b) sets forth that "[a] person shall be entitled to a patent unless the invention was patented or described in a printed publication in this or a foreign country…, more than one year prior to the date of application for patent in the United States." As set forth in the Declaration, the 2.0 Manual, relied upon in the rejection, did not describe the subject matter of Claims 1-16 and 24-30 more than one year prior to the filing of the Application. The 2.0 Manual submitted to the Office in an Information Disclosure Statement dated April 26, 2004 was misdated as having been published January 20, 2003. In fact, the 2.0 Manual was not made available to the public until after April 1, 2003. In that the Application was filed April 1, 2004, and in light of the Declaration, the 2.0 Manual does not qualify as prior art under 35 U.S.C. §102(b). For at least these reasons, Applicants respectfully submit that the rejection of Claims 1-13, 15-16, and 24-30 is improper. Accordingly, Applicants request withdrawal of the rejection.

Section 103 Rejection

The Office Action rejected Claims 14 and 31 under 35 U.S.C. §103(a) as being unpatentable over the 2.0 Manual in view the Official Notice taken by the Examiner. Claims 14 and 31 depend from independent Claims 1 and 24, respectively. In that the 2.0 Manual does not constitute prior art under 35 U.S.C. §102(b), the rejection of Claims 14 and 31 under 35 U.S.C. §103(a) is similarly improper.

In addition, Applicants respectfully traverse the Official Notice taken by the Examiner "that it is well known in the art in real estate related business that the request approvals require [following] certain guidelines and automatically approving or rejecting the request based on the guidelines (i.e. mortage [sic] approvals)." Office Action at ¶5. Although, the precise meaning of this passage of the Office Action is unclear, Applicants assume that Official Notice was taken that it is well-known in the real estate management arts to automatically approve or reject a request for approval, relating to management of real property, according to certain approval guidelines.

The M.P.E.P. is clear that it is inappropriate "for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of ***instant and unquestionable demonstration*** as being well-known." M.P.E.P. §2144.03(A) (emphasis added). Applicants assert that it cannot be instantly and unquestionably demonstrated to be well known to automatically approve or reject property management requests based on certain approval guidelines. Moreover, the Office Action fails to address some of the limitations of Claims 14 and 31. For example, no reference is provided or official action taken demonstrating that it is well-known to compare requests for approval and corresponding data items, received from a user, with data relating to approval guidelines to automatically determine whether the request should be approved. Accordingly, Applicants respectfully traverse the taking of Official Notice and request withdrawal of the rejection.

CONCLUSION

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue, or comment does not signify agreement with or concession of that rejection, issue, or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

In view of the above, and for other reasons clearly apparent, Applicants respectfully submit that the Application is in condition for allowance, and requests such a Notice. If the present Application is not allowed and/or if one or more of the rejections is maintained or made final, Applicants hereby request a telephone conference with the Examiner and further request that the Examiner contact the undersigned attorney to schedule the telephone conference.

This amendment is being filed concurrently with a Petition for One-Month Extension of Time. The appropriate large entity fee of $120.00 is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account No. 06-1050 authorization. No other fees are believed to be due. However, the Commissioner is hereby authorized to charge any other deficiencies or required fees or any credits to deposit account 06-1050, referencing the attorney docket number 14622-026001.

Respectfully submitted,

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/J. Kyle Komenda/
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